APPENDIX B

1. The constitutional provisions involved in this case are:.

Article III, Section 2 of the Constitution of the United States:

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; . . ."

Amendment Five to the Constitution of the United States:

"No person shall . . . be deprived of life, liberty, or property, without due process of law; . . ."

Amendment Nine to the Constitution of the United States:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparge others retained by the people."

Amendment Thirteen to the Constitution of the United States:

"Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime

whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"Section 2. Congress shall have power to enforce this article by appropriate legislation."

Amendment Fourteen to the Constitution of the United States:

"Section 1. All perons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

* * * * *

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

2. The statutes involved in this case are:

18 U.S.C., §241. Conspiracy against rights of citizens

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

18 U.S.C., §1584. Sale into involuntary servitude

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined not more than $5,000 or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 773.

28 U.S.C. 2201 Creation of remedy

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes,

any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. June 25, 1948, c. 646, 62 Stat. 964; May 24, 1949, c. 139, §111, 63 Stat. 105; Aug. 28, 1954, c. 1033, 68 Stat. 890; July 7, 1958, Pub.L. 85-508, §12(p), 72 Stat. 349.

28 U.S.C. 2281 Injunction against enforcement of State statute; three-judge court required

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

28 U.S.C. 2282 Injunction against enforcement of Federal statute; three-judge court required

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any Act of Congress for repugnance to the Constitution of the United States shall not be granted by any district court or judge thereof unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title.

42 U.S.C., §1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C., §1985. Conspiracy to interfere with civil rights — Preventing officer from performing duties

Depriving persons of rights or privileges

(3) If two or more persons in any State or Territory conspire to go in disguise on the highway

or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; . . . in any case of conspiracy set forth in this section, if one of more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

42 U.S.C. §1988. Proceedings in vindication of civil rights

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having

jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

Rhode Island General Laws, 11-3-1 et seq., (73-S 287, Substitute A)

AN ACT Relating to Abortions.

PREAMBLE

Whereas, The supreme court of the United States on January 22, 1973, recognized and acknowledged that state regulation is appropriate in any decisions to terminate pregnancy; and

Whereas, Said court found that a state may properly assert its interests in safeguarding life, in maintaining medical standards, and in protecting life in the proper exercise of its governmental functions; and

Whereas, Any right of privacy regarding decisions to terminate pregnancy is not an absolute right and must be considered in the light of important state interests in the regulation of such decisions; and

Whereas, The state of Rhode Island has a legitimate and important interest in preserving and protecting the life of pregnant women and in protecting all human life; and

Whereas, The state of Rhode Island, in its fulfillment of its legitimate function of protecting the well-being of all persons within its borders, hereby declares that in the furtherance of the public policy of said state, human life and, in fact, a person within the language and meaning of the fourteenth amendment to the constitution of the United States, commences to exist at the instant of conception; now, therefore,

It is enacted by the General Assembly as follows:

Section 1. Chapter 11-3 of the general laws entitled "Abortion" is hereby repealed in its entirety.

Sec. 2. Title 11 of the general laws entitled "Criminal offenses" is hereby amended by adding thereto the following chapter:

"CHAPTER 3
"Abortion

"11-3-1. PROCURING, COUNSELING OR ATTEMPTING MISCARRIAGE. — Every person who, with the intent to procure the miscarriage of

any pregnant woman or woman supposed to be pregnant, unless the same be necessary to preserve her life, shall administer to her or cause to be taken by her any poison or other noxious thing, or shall use any instrument or other means whatsoever or shall aid, assist or counsel any person so intending to procure a miscarriage, shall if the woman die in consequence thereof, be imprisoned not exceeding twenty (20) years nor less than five (5) years, and if she does not die in consequence thereof, shall be imprisoned not exceeding seven (7) years nor less than one (1) year; provided that the woman whose miscarriage shall have been caused or attempted shall not be liable to the penalties prescribed by this section.

"11-3-2. MURDER CHARGED IN SAME INDICTMENT. — Any person who shall be indicted for the murder of any infant child, or of any pregnant woman, or of any woman supposed by such person to be or to have been pregnant, may also be charged in the same indictment with any or all the offenses mentioned in section 11-3-1, and if the jury shall acquit such person on the charge of murder and find him guilty of the other offenses or either of them, judgment and sentence may be awarded against him accordingly.

"11-3-3. DYING DECLARATIONS ADMISSIBLE. — In prosecutions for any of the offenses described in section 11-3-1, in which the

death of a woman is alleged to have resulted from the means therein described, dying declarations of the deceased woman shall be admissible as evidence, as in homicide cases.

"11-3-4. CONSTRUCTION AND APPLICATION OF SECTION 11-3-1. — It shall be conclusively presumed in any action concerning the construction, application or validity of section 11-3-1, that human life commences at the instant of conception and that said human life at said instant of conception is a person within the language and meaning of the fourteenth amendment of the constitution of the United States, and that miscarriage at any time after the instant of conception caused by the administration of any poison or other noxious thing or the use of any instrument or other means shall be a violation of said section 11-3-1, unless the same be necessary to preserve the life of a woman who is pregnant.

"11-3-5. CONSTITUTIONALITY. — If any part, clause or section of this act shall be declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remaining provisions, parts or sections shall not be affected."

Sec. 3. This act shall take effect upon passage.

EXPLANATION

By the Legislative Council

This act repeals the existing chapter dealing with abortions.

It enacts a new chapter on abortions and adds the legislative determination that human life and a person within the language and meaning of the fourteenth amendment to the constitution of the United States commences at the instant of conception.

Rhode Island General Laws, 11-9-5

Cruelty to or neglect of child. — Every person having the custody or control of any child under the age of eighteen (18) years who shall abandon such child, or who shall treat such child with gross and habitual cruelty, . . . or who shall use or permit the use of such child for any wanton, cruel or improper purpose, or who by reason of neglect, cruelty, drunkenness or depravity, shall render the home of such child a place in which it is unfit for such child to live, shall be guilty of a misdemeanor and shall for every offense be imprisoned not exceeding one (1) year or be fined not exceeding two hundred fifty dollars ($250), or be both fined and imprisoned as aforesaid, and such child may be proceeded against as a neglected child under the provisions of chapter 1 of title 14.

Rhode Island General Laws, 14-1-1 et seq.

14-1-1. Short title. — This chapter shall be known and may be designated as "The family court act."

14-1-2. Purpose of chapter. — The purpose of this chapter is to secure for each child under its jurisdiction such care, guidance and control, preferably in his own home, as will serve the child's welfare and the best interests of the state; to conserve and strengthen the child's family ties wherever possible, removing him from the custody of his parents only when his welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents.

* * * * *

14-1-5. Exclusive jurisdiction of court. — The court shall, as hereinafter set forth, have exclusive original jurisdiction in proceedings.

A. Concerning any child residing or being within the state who is (1) delinquent, (2) wayward, (3) dependent, (4) neglected, or (5) mentally defective or mentally disordered.

B. Concerning adoption of children.

C. To determine the paternity of any child alleged to have been born out of wedlock and to provide for the support and disposition of such child in case such child or its mother has residence within the state.

D. Relating to child marriages, as prescribed by § 15-2-11.

E. Referred to the court in accordance with the provisions of §13-1-28.

Rhode Island General Laws, 8-10-3

Establishment of court —Jurisdiction —Seal — Oaths. — There is hereby established a family court, consisting of a chief judge and four (4) associate justices, to hear and determine all . . . those matters relating to delinquent, wayward, dependent, neglected or mentally defective or mentally disordered children;

Rhode Island General Laws, 8-10-43

References to family court —Powers and duties. —

In addition to the powers and authority specifically granted in this act, the justices of the

family court shall have, insofar as they are applicable, the same obligations and duties as superior court justices, and in all matters within the jurisdiction of said court shall be vested with all of the prerogatives and authority of associate justices of the superior court.

Rhode Island General Laws:

14-1-6. Retention of jurisdiction. — When jurisdiction shall have been obtained by the court in the case of any child, such child shall, except as herein otherwise specifically provided, continue under the jurisdiction of the court until he becomes twenty-one (21) years of age, unless discharged prior thereto; provided, however, that nothing herein contained shall affect the jurisdiction of other courts over offenses committed by such child after he reaches the age of eighteen (18).

* * * * *

14-1-10. Preliminary investigation on information furnished to court. — Whenever any appropriate person shall give to the court information in his possession that a child is within the provisions of this chapter, it shall be the duty of the court to make preliminary investigation to determine whether the interests of the public or of the child require that further action be taken, and

to report its findings together with a statement of the facts to the judge. . . .

14-1-11. Authorizing and filing petition. — If a justice of the family court shall determine that such formal jurisdiction should be acquired he shall authorize a petition to be filed. . . . Said petition shall be directed to the family court of the state of Rhode Island, setting forth that in the opinion of the petitioner such child is a delinquent, wayward, dependent or neglected child, or otherwise comes within the provisions of this chapter, as the case may be, and requires the care and protection of the state, and such petition shall be sworn to before either justice or clerk of the family court.

* * * * *

14-1-29. Times and places of hearings. — The court shall designate suitable times and places for the hearing of all matters arising within its jurisdiction and may sit at such other times and places within the state as to such court may seem best adapted to the carrying out of the purposes of this chapter. . . .

* * * * *

14-1-32. Power of court to order disposition of child. — If the court shall find that a child is

delinquent, wayward, neglected, dependent or otherwise within the provisions of this chapter, it may by order duly entered proceed as follows:

Place the child on probation or under supervision in his own home or in the custody of a relative or other suitable person, or in the custody of any of the agencies, societies or institutions under the control of or approved by the department of social welfare, upon such terms as the court shall determine.

Rhode Island General Laws, 23-51-1

Consent to medical and surgical care. — Any person of the age of sixteen (16) or over or married, may consent to routine emergency medical or surgical care. A minor parent may consent to treatment of his child.

Federal Rules of Civil Procedure:

Rule 17(c) Parties Plaintiff and Defendant; Capacity.

* * * * *

INFANTS OR INCOMPETENT PERSONS. Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the

representative may sue or defend on behalf of the infant or incompetent person. If an infant or incompetent person does not have a duly appointed representative he may sue by his next friend or by a guardian *ad litem*. The court shall appoint a guardian *ad litem* for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person.

Rule 19 Joinder of Persons Needed for Just Adjudication.

(a) PERSONS TO BE JOINED IF FEASIBLE. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may

be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action.

(b) DETERMINATION BY COURT WHENEVER JOINDER NOT FEASIBLE. If a person as described in subdivision (a)(1)(2) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; second, the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

* * * * *

(d) EXCEPTION OF CLASS ACTIONS. This rule is subject to the provisions of Rule 23.

Rule 23. Class Actions.

(a) PREREQUISITIES TO CLASS ACTION. One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

(b) CLASS ACTIONS MAINTAINABLE. An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition:

(1) the prosecution of separate actions by or against individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other

members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action.

(c) DETERMINATION BY ORDER WHETHER CLASS ACTION TO BE MAINTAINED; NOTICE; JUDGMENT; ACTIONS CONDUCTED PARTIALLY AS CLASS ACTIONS.

(1) As soon as practicable after the commencement of an action brought as a class action, the court shall determine byorder whether it is to be so maintained. An order under this subdivision may be conditional, and may be altered or amended before the decision on the merits.

(2) In any class action maintained under subdivision (b)(3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that (A) the court will exclude him from the class if he so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion, and (C) any member who does not request exclusion may, if he desires, enter an appearance through his counsel.

(3) The judgment in an action maintained as a class action under subdivision (b)(1) or (b)(2), whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under subdivision (b)(3), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in subdivision (c)(2) was directed,

and who have not requested exclusion, and whom the court finds to be members of the class.

(4) When appropriate (A) an action may be brought or maintained as a class action with respect to particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this rule shall then be construed and applied accordingly.

(d) ORDERS IN CONDUCT OF ACTIONS. In the conduct of actions to which this rule applies, the court may make appropriate orders: (1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument; (2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action; (3) imposing conditions on the representative parties or on intervenors; (4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the

action proceed accordingly; (5) dealing with similar procedural matters. The orders may be combined with an order under Rule 16, and may be altered or amended as may be desirable from time to time.

(e) DISMISSAL OR COMPROMISE. A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

Rule 24. Intervention.

(a) INTERVENTION OF RIGHT. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

* * * * *

(c) PROCEDURE. A person desiring to intervene shall serve a motion to intervene upon the parties

as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute of the United States gives a right to intervene. When the constitutionality of an act of Congress affecting the public interest is drawn in question in any action to which the United States or an officer, agency, or employee thereof is not a party, the court shall notify the Attorney General of the United States as provided in Title 28, U.S.C., §2403.